

## CHAPTER 572

### MECHANIC'S LIEN

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#### 572.1 Definitions and rules of construction.

For the purpose of [this chapter](#):

1. “*Building*” shall be construed as if followed by the words “erection, or other improvement upon land”.

2. “*Labor*” means labor completed by the claimant.

3. “*Material*” shall, in addition to its ordinary meaning, include machinery, tools, fixtures, trees, evergreens, vines, plants, shrubs, tubers, bulbs, hedges, bushes, sod, soil, dirt, mulch, peat, fertilizer, fence wire, fence material, fence posts, tile, and the use of forms, accessories, and equipment furnished by the claimant.

4. “*Owner*” means the record titleholder and every person for whose use or benefit any building, erection, or other improvement is made, having the capacity to contract, including guardians.

5. “*Owner-occupied dwelling*” means the homestead of an owner, as defined in [section 561.1](#), and without respect to the value limitations in [section 561.3](#), and actually occupied by the owner or the spouse of the owner, or both. “*Owner-occupied dwelling*” includes a newly constructed dwelling to be occupied by the owner as a homestead, or a dwelling that is under construction and being built by or for an owner who will occupy the dwelling as a homestead.

6. “*Subcontractor*” shall include every person furnishing material or performing labor upon any building, erection, or other improvement, except those having contracts directly with the owner.

[C51, §982; R60, §1866, 1871; C73, §2144, 2146; C97, §3096, 3097; C24, 27, 31, 35, 39, §10270; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.1; 81 Acts, ch 186, §1]

98 Acts, ch 1142, §1; 2007 Acts, ch 83, §1, 2

#### 572.2 Persons entitled to lien.

1. Every person who shall furnish any material or labor for, or perform any labor upon, any building or land for improvement, alteration, or repair thereof, including those engaged in the construction or repair of any work of internal or external improvement, and those engaged in grading, sodding, installing nursery stock, landscaping, sidewalk building, fencing on any land or lot, by virtue of any contract with the owner, contractor, or subcontractor shall have a lien upon such building or improvement, and land belonging to the owner on which the same

is situated or upon the land or lot so graded, landscaped, fenced, or otherwise improved, altered, or repaired, to secure payment for the material or labor furnished or labor performed.

2. If material is rented by a person to the owner, contractor, or subcontractor, the person shall have a lien upon such building, improvement, or land to secure payment for the material rental. The lien is for the reasonable rental value during the period of actual use of the material and any reasonable periods of nonuse of the material taken into account in the rental agreement. The delivery of material to such building, improvement, or land, whether or not delivery is made by the person, creates a presumption that the material was used in the course of alteration, construction, or repair of the building, improvement, or land. However, this presumption shall not pertain to recoveries sought under a surety bond.

[C51, §981, 1010; R60, §1846; C73, §2130; C97, §3089; C24, 27, 31, 35, 39, §10271; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.2]

98 Acts, ch 1142, §2; 2007 Acts, ch 83, §3  
Homestead liable, §561.21

### **572.3 Collateral security before completion of work.**

No person shall be entitled to a mechanic's lien who, at the time of making a contract for furnishing material or performing labor, or during the progress of the work, shall take any collateral security on such contract.

[C51, §1009; R60, §1845; C73, §2129; C97, §3088; C24, 27, 31, 35, 39, §10272; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.3]

### **572.4 Security after completion of work.**

After the completion of such work, the taking of security of any kind shall not affect the right to establish a mechanic's lien unless such new security shall, by express agreement, be given and received in lieu of such lien.

[C97, §3088; C24, 27, 31, 35, 39, §10273; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.4]

### **572.5 Extent of lien.**

The entire land upon which any building or improvement is situated, including that portion not covered therewith, shall be subject to a mechanic's lien to the extent of the interest therein of the person for whose benefit such material was furnished or labor performed.

[R60, §1854; C73, §2140; C97, §3090; C24, 27, 31, 35, 39, §10274; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.5]

### **572.6 In case of leasehold interest.**

When the interest of such person is only a leasehold, the forfeiture of the lease for the nonpayment of rent, or for noncompliance with any of the other conditions therein, shall not forfeit or impair the mechanic's lien upon such building or improvement; but the same may be sold to satisfy such lien, and removed by the purchaser within thirty days after the sale thereof.

[R60, §1854; C73, §2140; C97, §3090; C24, 27, 31, 35, 39, §10275; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.6]

### **572.7 In case of internal improvement.**

When the lien is for material furnished or labor performed in the construction, repair, or equipment of any railroad, canal, viaduct, or other similar improvement, said lien shall attach to the erections, excavations, embankments, bridges, roadbeds, rolling stock, and other equipment and to all land upon which such improvements or property may be situated, except the easement or right-of-way.

[C73, §2132; C97, §3091; C24, 27, 31, 35, 39, §10276; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.7]

### **572.8 Perfection of lien.**

1. A person shall perfect a mechanic's lien by filing with the clerk of the district court of the county in which the building, land, or improvement to be charged with the lien is situated a

verified statement of account of the demand due the person, after allowing all credits, setting forth:

- a. The date when such material was first furnished or labor first performed, and the date on which the last of the material was furnished or the last of the labor was performed.
  - b. The legal description of the property to be charged with the lien.
  - c. The name and last known mailing address of the owner of the property.
2. Upon the filing of the lien, the clerk of court shall mail a copy of the lien to the owner. If the statement of the lien consists of more than one page, the clerk may omit such pages as consist solely of an accounting of the material furnished or labor performed. In this case, the clerk shall attach a notification that pages of accounting were omitted and may be inspected in the clerk's office.

[R60, §1851; C73, §2137; C97, §3092; C24, 27, 31, 35, 39, §10277; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.8]

2007 Acts, ch 83, §4

Referred to in §207.23, 572.9, 572.10, 572.31, 602.8102(8)

#### **572.9 Time of filing.**

The statement of account required by [section 572.8](#) shall be filed by a principal contractor or subcontractor within two years and ninety days after the date on which the last of the material was furnished or the last of the labor was performed.

[R60, §1851; C73, §2137; C97, §3092; C24, 27, 31, 35, 39, §10278; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.9]

87 Acts, ch 79, §1; 2007 Acts, ch 83, §5

Referred to in §572.31

#### **572.10 Perfecting lien after lapse of ninety days.**

A contractor or a subcontractor may perfect a mechanic's lien pursuant to [section 572.8](#) beyond ninety days after the date on which the last of the material was furnished or the last of the labor was performed by filing a claim with the clerk of the district court and giving written notice thereof to the owner. Such notice may be served by any person in the manner original notices are required to be served. If the party to be served is out of the county wherein the property is situated, a return of that fact by the person charged with making such service shall constitute sufficient service from and after the time it was filed with the clerk of the district court.

[C73, §2133; C97, §3094; SS15, §3094; C24, 27, 31, 35, 39, §10279; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.10]

87 Acts, ch 79, §2; 2007 Acts, ch 83, §6

Referred to in §572.11, 572.20

Service of notice, R.C.P. 1.302 – 1.315

#### **572.11 Extent of lien filed after ninety days.**

Liens perfected under [section 572.10](#) shall be enforced against the property or upon the bond, if given, by the owner, only to the extent of the balance due from the owner to the contractor at the time of the service of such notice; but if the bond was given by the contractor, or person contracting with the subcontractor filing the claim for a lien, such bond shall be enforced to the full extent of the amount found due the subcontractor.

[C73, §2133; C97, §3094; SS15, §3094; C24, 27, 31, 35, 39, §10280; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.11]

87 Acts, ch 79, §3; 2007 Acts, ch 83, §7

Referred to in §572.20

#### **572.12 Time of filing against railway.**

Where a lien is claimed upon a railway, the subcontractor shall have ninety days from the last day of the month in which such labor was done or material furnished within which to file the claim therefor.

[R60, §1851; C73, §2137; C97, §3092; C24, 27, 31, 35, 39, §10281; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.12]

87 Acts, ch 79, §4

### **572.13 Liability of owner to original contractor.**

1. An owner of a building, land, or improvement upon which a mechanic's lien of a subcontractor may be filed, is not required to pay the original contractor for compensation for work done or material furnished for the building, land, or improvement until the expiration of ninety days after the completion of the building or improvement unless the original contractor furnishes to the owner one of the following:

a. Receipts and waivers of claims for mechanics' liens, signed by all persons who furnished material or performed labor for the building, land, or improvement.

b. A good and sufficient bond to be approved by the owner, conditioned that the owner shall be held harmless from any loss which the owner may sustain by reason of the filing of mechanics' liens by subcontractors.

2. An original contractor who enters into a contract for an owner-occupied dwelling and who has contracted or will contract with a subcontractor to provide labor or furnish material for the dwelling shall include the following notice in any written contract with the owner and shall provide the owner with a copy of the written contract:

"Persons or companies furnishing labor or materials for the improvement of real property may enforce a lien upon the improved property if they are not paid for their contributions, even if the parties have no direct contractual relationship with the owner."

If no written contract is entered into between the original contractor and the dwelling owner, the original contractor shall, within ten days of commencement of work on the dwelling, provide written notice to the dwelling owner stating the name and address of all subcontractors that the contractor intends to use for the construction and, that the subcontractors or suppliers may have lien rights in the event they are not paid for their labor or material used on this site; and the notice shall be updated as additional subcontractors and suppliers are used from the names disclosed on earlier notices.

An original contractor who fails to provide notice under [this section](#) is not entitled to the lien and remedy provided by [this chapter](#).

[R60, §1847; C73, §2131; C97, §3093; S13, §3093; C24, 27, 31, 35, 39, §10282; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.13]

87 Acts, ch 79, §5; 2007 Acts, ch 83, §8, 9

### **572.14 Liability to subcontractor after payment to original contractor.**

1. Except as provided in [subsection 2](#), payment to the original contractor by the owner of any part or all of the contract price of the building or improvement within ninety days after the date on which the last of the materials was furnished or the last of the labor was performed by a subcontractor, does not relieve the owner from liability to the subcontractor for the full value of any material furnished or labor performed upon the building, land, or improvement if the subcontractor files a lien within ninety days after the date on which the last of the materials was furnished or the last of the labor was performed.

2. In the case of an owner-occupied dwelling, a mechanic's lien perfected under [this chapter](#) is enforceable only to the extent of the balance due the principal contractor by the owner-occupant prior to the owner-occupant being served with the notice specified in [subsection 3](#). This notice may be served by delivering it to the owner or the owner's spouse personally, or by mailing it to the owner by certified mail with restricted delivery and return receipt to the person mailing the notice, or by personal service as provided in the rules of civil procedure.

3. The written notice required for purposes of [subsection 2](#) shall contain the name of the owner, the address of the property charged with the lien, the name, address and telephone number of the lien claimant, and the following statement:

"The person named in this notice is providing labor or materials or both in connection with improvements to your residence or real property. [Chapter 572](#) of the Code of Iowa may permit the enforcement of a lien against this property to secure payment for labor and materials supplied. You are not required to pay more to the person claiming the lien than

the amount of money due from you to the person with whom you contracted to perform the improvements. You should not make further payments to your contractor until the contractor presents you with a waiver of the lien claimed by the person named in this notice. If you have any questions regarding this notice you should call the person named in this notice at the phone number listed in this notice or contact an attorney. You should obtain answers to your questions before you make any payments to the contractor.”

[S13, §3093; C24, 27, 31, 35, 39, §10283; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.14; 81 Acts, ch 186, §2]

87 Acts, ch 79, §6; 98 Acts, ch 1142, §3; 2007 Acts, ch 83, §10

Referred to in [§572.16](#)

#### **572.15 Discharge of subcontractor’s lien — bond.**

A mechanic’s lien may be discharged at any time by the owner, principal contractor, or intermediate subcontractor filing with the clerk of the district court of the county in which the property is located a bond in twice the amount of the sum for which the claim for the lien is filed, with surety or sureties, to be approved by the clerk, conditioned for the payment of any sum for which the claimant may obtain judgment upon the claim.

[C97, §3093; S13, §3093; C24, 27, 31, 35, 39, §10284; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.15]

86 Acts, ch 1017, §1; 2007 Acts, ch 83, §11

#### **572.16 Rule of construction.**

Nothing in [this chapter](#) shall be construed to require the owner to pay a greater amount or at an earlier date than is provided in the owner’s contract with the principal contractor, unless said owner pays a part or all of the contract price to the original contractor before the expiration of the ninety days allowed by law for the filing of a mechanic’s lien by a subcontractor; provided that in the case of an owner-occupied dwelling, nothing in [this chapter](#) shall be construed to require the owner to pay a greater amount or at an earlier date than is provided in the owner’s contract with the principal contractor, unless the owner pays a part or all of the contract price to the principal contractor after receipt of notice under [section 572.14, subsection 2](#).

[C97, §3093; S13, §3093; C24, 27, 31, 35, 39, §10285; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.16; 81 Acts, ch 186, §3]

87 Acts, ch 79, §7

#### **572.17 Priority of mechanics’ liens between mechanics.**

Mechanics’ liens shall have priority over each other in the order of the filing of the statements or accounts as herein provided.

[R60, §1853, 1855; C73, §2139, 2141; C97, §3095; C24, 27, 31, 35, 39, §10286; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.17]

#### **572.18 Priority over other liens.**

1. Mechanics’ liens filed by a principal contractor or subcontractor within ninety days after the date on which the last of the material was furnished or the last of the claimant’s labor was performed shall be superior to all other liens which may attach to or upon a building or improvement and to the land upon which it is situated, except liens of record prior to the time of the original commencement of the claimant’s work or the claimant’s improvements, except as provided in [subsection 2](#).

2. Construction mortgage liens shall be preferred to all mechanics’ liens of claimants who commenced their particular work or improvement subsequent to the date of the recording of the construction mortgage lien. For purposes of [this section](#), a lien is a “*construction mortgage lien*” to the extent that it secures loans or advancements made to directly finance work or improvements upon the real estate which secures the lien.

3. The rights of purchasers, encumbrancers, and other persons who acquire interests in good faith, for a valuable consideration, and without notice of a lien perfected pursuant to [this](#)

[chapter](#), are superior to the claims of all contractors or subcontractors who have perfected their liens more than ninety days after the date on which the last of the claimant's material was furnished or the last of the claimant's labor was performed.

4. For purposes of [this section](#), a lender who obtains an interest in the real estate by assignment of a mortgage shall be entitled to the same priority as the original mortgagee.

[R60, §1851, 1853, 1855; C73, §2137, 2139, 2141; C97, §3092, 3095; C24, 27, 31, 35, 39, §10287; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.18]

84 Acts, ch 1215, §1; 2007 Acts, ch 83, §12

Referred to in [§654.12A](#)

#### **572.19 Priority over garnishments of the owner.**

Mechanics' liens shall take priority of all garnishments of the owner for the contract debts, whether made prior or subsequent to the commencement of the furnishing of the material or performance of the labor, without regard to the date of filing the claim for such lien.

[C97, §3095; C24, 27, 31, 35, 39, §10288; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.19]

#### **572.20 Priority as to buildings over prior liens upon land.**

Mechanics' liens, including those for additions, repairs, and betterments, shall attach to the building or improvement for which the material or labor was furnished or done, in preference to any prior lien, encumbrance, or mortgage upon the land upon which such building or improvement was erected or situated except as provided in [sections 572.10](#) and [572.11](#).

[R60, §1853, 1855; C73, §2139, 2141; C97, §3095; C24, 27, 31, 35, 39, §10289; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.20]

2007 Acts, ch 83, §13

#### **572.21 Foreclosure of mechanic's lien when lien on land.**

In the foreclosure of a mechanic's lien when there is a superior lien, encumbrance, or mortgage upon the land the following regulations shall govern:

1. *Lien on original and independent building or improvement.* If such material was furnished or labor performed in the construction of an original and independent building or improvement commenced after the attaching or execution of such superior lien, encumbrance, or mortgage, the court may, in its discretion, order such building or improvement to be sold separately under execution, and the purchaser may remove the same in such reasonable time as the court may fix. If the court shall find that such building or improvement should not be sold separately, it shall take an account of and ascertain the separate values of the land, and the building or improvement, and order the whole sold, and distribute the proceeds of such sale so as to secure to the superior lien, encumbrance, or mortgage priority upon the land, and to the mechanic's lien priority upon the building or improvement.

2. *Lien on existing building or improvement for repairs or additions.* If the material furnished or labor performed was for additions, repairs, or betterments upon any building or improvement, the court shall take an accounting of the values before such material was furnished or labor performed, and the enhanced value caused by such additions, repairs, or betterments; and upon the sale of the premises, distribute the proceeds of such sale so as to secure to the superior mortgagee or lienholder priority upon the land and improvements as they existed prior to the attaching of the mechanic's lien, and to the mechanic's lienholder priority upon the enhanced value caused by such additions, repairs, or betterments. In case the premises do not sell for more than sufficient to pay off the superior mortgage or other superior lien, the proceeds shall be applied on the superior mortgage or other superior liens.

[R60, §1853, 1855; C73, §2139, 2141; C97, §3095; C24, 27, 31, 35, 39, §10290; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.21]

2007 Acts, ch 83, §14



### **572.22 Record of claim.**

The clerk of the court shall endorse upon every claim for a mechanic's lien filed in the clerk's office the date and hour of filing and make an abstract thereof in the mechanic's lien book kept for that purpose. Said book shall be properly indexed and shall contain the following items concerning each claim:

1. The name of the person by whom filed.
2. The date and hour of filing.
3. The amount thereof.
4. The name of the person against whom filed.
5. The legal description of the property to be charged therewith.

[R60, §1852; C73, §2138; C97, §3100; C24, 27, 31, 35, 39, §10291; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.22]

2007 Acts, ch 83, §15

### **572.23 Acknowledgment of satisfaction of claim.**

1. When a mechanic's lien is satisfied by payment of the claim, the claimant shall acknowledge satisfaction thereof upon the mechanic's lien book, or otherwise in writing, and, if the claimant neglects to do so for thirty days after demand in writing is personally served upon the claimant, the claimant shall forfeit and pay twenty-five dollars to the owner or contractor, and be liable to any person injured to the extent of the injury.

2. If acknowledgment of satisfaction is not filed within thirty days after service of the demand in writing, the party serving the demand or causing the demand to be served may file for record with the clerk of the district court a copy of the demand with proofs of service attached and endorsed and, in case of service by publication, a personal affidavit that personal service could not be made within this state. Upon completion of the requirements of [this subsection](#), the record shall be constructive notice to all parties of the due forfeiture and cancellation of the lien. Upon the filing of the demand with the required attachments, the clerk of the district court shall mail a file-stamped copy of the demand to both parties.

[R60, §1867 – 1869; C73, §2145; C97, §3101; C24, 27, 31, 35, 39, §10292; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.23]

99 Acts, ch 79, §1; 2000 Acts, ch 1154, §34

### **572.24 Time of bringing action — court.**

1. An action to enforce a mechanic's lien, or an action brought upon any bond given in lieu thereof, may be commenced in the district court after said lien is perfected.

2. An action to challenge a mechanic's lien may be commenced in the district court or small claims court if the amount of the lien is within jurisdictional limits. Any permissible claim or counterclaim meeting subject matter and jurisdictional requirements may be joined with the action. The court shall make written findings regarding the lawful amount and the validity of the mechanic's lien. In addition to any other appropriate order, the court may enter judgment on a permissibly joined claim or counterclaim. If the court determines that the mechanic's lien is invalid, valid for a lesser amount, frivolous, fraudulent, forfeited, expired, or for any other reason unenforceable, the clerk of the district court shall make an entry of record to the mechanic's lien book regarding the proper amount of the lien or, if warranted, canceling the lien.

[R60, §1856; C73, §2142, 2143; C97, §3098; C24, 27, 31, 35, 39, §10293; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.24]

99 Acts, ch 79, §2

Referred to in [§631.1](#)

### **572.25 Place of bringing action.**

An action to enforce a mechanic's lien shall be brought in the county in which the property to be affected, or some part thereof, is situated.

[C73, §2142, 2578; C97, §3098, 3493; C24, 27, 31, 35, 39, §10294; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.25]

### **572.26 Kinds of action — amendment.**

An action to enforce a mechanic's lien shall be by equitable proceedings, and no other cause of action shall be joined therewith.

Any lien statement may be amended by leave of court in furtherance of justice, except as to the amount demanded.

[C51, §985; R60, §4183; C73, §2510; C97, §3429; C24, 27, 31, 35, 39, §10295; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.26]

### **572.27 Limitation on action.**

Any action to enforce a mechanic's lien shall be brought within two years from the expiration of ninety days after the date on which the last of the material was furnished or the last of the labor was performed.

[C51, §984; R60, §1865; C73, §2529; C97, §3447; S13, §3447; C24, 27, 31, 35, 39, §10296; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.27]

87 Acts, ch 79, §8; 2007 Acts, ch 83, §16

### **572.28 Demand for bringing suit.**

1. Upon the written demand of the owner served on the lienholder requiring the lienholder to commence action to enforce the lien, such action shall be commenced within thirty days thereafter, or the lien and all benefits derived therefrom shall be forfeited.

2. If an action is not filed within thirty days after demand to commence action is served, the party serving the demand or causing the demand to be served may file for record with the clerk of the district court a copy of the demand with proofs of service attached and endorsed and, in case of service by publication, a personal affidavit that personal service could not be made within this state. Upon completion of the requirements of [this subsection](#), the record shall be constructive notice to all parties of the due forfeiture and cancellation of the lien. Upon the filing of the demand with the required attachments, the clerk of the district court shall mail a file-stamped copy of the demand to both parties.

[C73, §2143; C97, §3099; C24, 27, 31, 35, 39, §10297; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.28]

99 Acts, ch 79, §3; 2007 Acts, ch 83, §17

### **572.29 Assignment of lien.**

A mechanic's lien is assignable, and shall follow the assignment of the debt for which it is claimed.

[C97, §3099; C24, 27, 31, 35, 39, §10298; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.29]

### **572.30 Action by subcontractor or owner against contractor.**

Unless otherwise agreed, a principal contractor who engages a subcontractor to supply labor or materials or both for improvements, alterations or repairs to a specific owner-occupied dwelling shall pay the subcontractor in full for all labor and materials supplied within thirty days after the date the principal contractor receives full payment from the owner. If a principal contractor fails without due cause to pay a subcontractor as required by [this section](#), the subcontractor, or the owner by subrogation, may commence an action against the contractor to recover the amount due. Prior to commencing an action to recover the amount due, a subcontractor, or the owner by subrogation, shall give notice of nonpayment of the cost of labor or materials to the principal contractor paid for the improvement. Notice of nonpayment must be in writing, delivered in a reasonable manner, and in terms that reasonably identify the real estate improved and the nonpayment complained of. In an action to recover the amount due a subcontractor, or the owner by subrogation, under [this section](#), the court in addition to actual damages, shall award a successful plaintiff exemplary damages against the contractor in an amount not less than one percent and not exceeding fifteen percent of the amount due the subcontractor, or the owner by subrogation, for the labor and materials supplied, unless the principal contractor does one or both of the following, in which case no exemplary damages shall be awarded:



1. Establishes that all proceeds received from the person making the payment have been applied to the cost of labor or material furnished for the improvement.

2. Within fifteen days after receiving notice of nonpayment the principal contractor gives a bond or makes a deposit with the clerk of the district court, in an amount not less than the amount necessary to satisfy the nonpayment for which notice has been given under [this section](#), and in a form approved by a judge of the district court, to hold harmless the owner or person having the improvement made from any claim for payment of anyone furnishing labor or material for the improvement, other than the principal contractor.

[81 Acts, ch 186, §4]

87 Acts, ch 79, §9

### **572.31 Co-operative and condominium housing.**

A lien arising under [this chapter](#) as a result of the construction of an apartment house or apartment building which is owned on a co-operative basis under [chapter 499A](#), or which is submitted to a horizontal property regime under [chapter 499B](#), is not enforceable, notwithstanding any contrary provision of [this chapter](#), as against the interests of an owner in an owner-occupied dwelling unit contained in the apartment house or apartment building acquired in good faith and for valuable consideration, unless a lien statement specifically describing the dwelling unit is filed under [section 572.8](#) within the applicable time period specified in [section 572.9](#), but determined from the date on which the last of the material was supplied or the last of the labor was performed in the construction of that dwelling unit.

[C81, §572.30]

C83, §572.31

### **572.32 Attorney fees — remedies.**

1. In a court action to enforce a mechanic's lien, if the plaintiff furnished labor or materials directly to the defendant, a prevailing plaintiff may be awarded reasonable attorney fees.

2. In a court action to challenge a mechanic's lien filed on an owner-occupied dwelling, if the person challenging the lien prevails, the court may award reasonable attorney fees and actual damages. If the court determines that the mechanic's lien was filed in bad faith or the supporting affidavit was materially false, the court shall award the owner reasonable attorney fees plus an amount not less than five hundred dollars or the amount of the lien, whichever is less.

83 Acts, ch 106, §1; 99 Acts, ch 79, §4

Referred to in [§631.1](#)

### **572.33 Requirement of notification.**

1. A person furnishing labor or materials to a subcontractor shall not be entitled to a lien under [this chapter](#) unless the person furnishing labor or materials does all of the following:

a. Notifies the principal contractor in writing with a one-time notice containing the name, mailing address, and telephone number of the person furnishing the labor or materials, and the name of the subcontractor to whom the labor or materials were furnished, within thirty days of first furnishing labor or materials for which a lien claim may be made. Additional labor or materials furnished by the same person to the same subcontractor for use in the same construction project shall be covered by this notice.

b. Supports the lien claim with a certified statement that the principal contractor was notified in writing with a one-time notice containing the name, mailing address, and telephone number of the person furnishing the labor or materials, and the name of the subcontractor to whom the labor or materials were furnished, within thirty days after the labor or materials were first furnished, pursuant to paragraph "a".

2. [This section](#) shall not apply to a mechanic's lien on single-family or two-family dwellings occupied or used or intended to be occupied or used for residential purposes.

3. Notwithstanding other provisions of [this chapter](#), a principal contractor shall not be prohibited from requesting information from a subcontractor or a person furnishing labor or

materials to a subcontractor regarding payments made or payments to be made to a person furnishing labor or materials to a subcontractor.

84 Acts, ch 1248, §1; 98 Acts, ch 1142, §4; 99 Acts, ch 104, §1; 2007 Acts, ch 83, §18